

(2013) 12 KAR CK 0454

In the Karnataka High Court

Case No : Writ Petition No's. 54386, 58041 and 58042 of 2013

Smt. Kamala Shedthi and Another

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 19-12-2013

Acts Referred:

Citation : (2014) 1 KarLJ 562

Hon'ble Judges : B.V. Nagarathna, J

Bench : Single Bench

Advocate : S. Viswajith Shetty, for the Appellant; Kiran Kumar T.L., Additional Government Advocate, for the Respondent

Judgement

B.V. Nagarathna, J.—Petitioners have sought a direction to the 2nd respondent-Deputy Commissioner to consider their representation dated 1-7-2013 (Annexure-T) filed by the petitioners pursuant to the orders dated 31-1-2012 passed by the Karnataka Appellate Tribunal (hereinafter referred to as the "Tribunal") in Appeal No. 814 of 2010, a copy of which is produced at Annexure-S. Briefly stated, the facts are that lands bearing Sy. No. 31/3 measuring 1.15 acres; Sy. No. 30/2 measuring 0.38 acres and Sy. No. 217/2B measuring 1 acre at Kairangala Village were granted to the husband of the 1st petitioner and father of the 2nd petitioner one Ramayya Shetty by an order dated 28-6-1958 by the Tahsildar, Belthangadi. These lands were leased for the purpose of cashew cultivation under the Cashew Cultivation Rules, 1957. It appears that land bearing Sy. No. 31/3 was, later renumbered as 31/1. The lease was for a period of 30 years subject to certain terms and conditions of grant. It is the case of the petitioners that the terms and conditions of the lease have been complied with by late Ramayya Shetty. He died on 11-7-1986. Subsequently, petitioners made an application before the 4th respondent-Tahsildar, Bantwal for granting permanent ownership of the land which were leased to late Ramayya Shetty. Certain enquiries were initiated on the application filed by the petitioners. When the matter stood thus, 4th respondent-Tahsildar made a spot inspection of the

land bearing Sy. No. 31/1 measuring 1 acre 20 cents. Based on that report, 3rd respondent-Assistant Commissioner acting u/s 71 of the Karnataka Land Revenue Act, 1964 issued an order dated 28-2-2009 reserving that extent of land for the purpose of Higher Primary School subject to certain terms and conditions. Being aggrieved by that order, petitioners had filed an appeal before the 2nd respondent-Deputy Commissioner. By order dated 6-9-2009, Deputy Commissioner allowed the appeal and set aside the order of the Assistant Commissioner on the ground that the land reserved for the purpose of school was granted to the petitioners. However there were certain observations made by the Deputy Commissioner in his order and on that basis, the Tahsildar, Bantwal prepared a report stating that there were violations of terms and conditions and therefore, it was a case for cancellation of grant. That report was challenged by the petitioners by filing objections. But by a recommendatory letter dated 26-8-2009 made to the 2nd respondent, there was a cancellation of the grant in Sy. No. 31/1B to an extent of 40 cents. After a show-cause notice issued to the petitioners, the grant was cancelled on 8-10-2010. The cancellation of the grant was appealed by the petitioners in Appeal No. 814 of 2010 before the Tribunal. That appeal was dismissed on 31-1-2012. However, a direction was issued to the Deputy Commissioner to consider the application filed by the appellants/petitioners on 14-7-1995 with regard to the grant of land in respect of remaining land measuring 0.75 cents and 0.38 cents and 1 acre in Sy. Nos. 31/1B, 30/2 and 217/2B respectively. Pursuant to that order, petitioners made an application dated 1-7-2013 to the 2nd respondent-Deputy Commissioner. The grievance of the petitioners is that their application has not yet been considered. Hence, a direction is sought in that regard.

2. I have heard the learned Counsel for petitioners and learned AGA who is appearing for respondents 1 to 4 and perused the material on record.

3. The application dated 14-7-1995 was made by the petitioners subsequent to the death of the original grantee, late Ramayya Shetty. That application has not yet been considered till date. That apart, specific direction had been issued by the Tribunal to the 2nd respondent to consider the application even though the appeal filed by the petitioners herein was dismissed by order dated 31-1-2012. That direction has also not been complied with by the 2nd respondent. In the circumstances, a direction is issued to the 2nd respondent to consider the representation made by the petitioners dated 14-7-1995 as well as 1-7-2013 in the light of the judgment of the Tribunal dated 31-1-2012 and in accordance with law. The said consideration shall be made within a period of three months from the date of receipt of certified copy of this order.

With the aforesaid observations and directions, writ petitions are disposed of.